

PUBLIC RECORDS POLICIES

The policy of the Office of the State Auditor is one of full and responsible disclosure of its records consistent with the Mississippi Public Records Act of 1983, Mississippi Code of 1972 (Annotated), Section 25-61-1, et seq., hereinafter referred to as “the Public Records Act.” All records and portions of records not exempt from disclosure will be made available for inspection or copying.

Moreover, records exempt from mandatory disclosure may be made available when applicable where disclosure is not prohibited by law and is not against the public interest.

The following definitions will be utilized for the purpose of this policy:

Public Record: A public record shall mean all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings, or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of the Office of the State Auditor, or required to be maintained by the Office of the State Auditor. There is no requirement for lists of documents to be created if they do not exist in the normal course of business or are not required by law.

Incident Report: A narrative description, if such narrative description exists and if such narrative description does not contain investigative information, of an alleged offense, and at a minimum shall include the name and identification of each person charged with and arrested for the alleged offense, the time, date and location of the alleged offense, and the property involved, to the extent this information is known.

Investigative Report: Records of a law enforcement agency containing information beyond the scope of the matters contained in an incident report, and generally will include, but not be limited to, the following matters if beyond the scope of the matters contained in an incident report:

- (1) Records that are compiled in the process of detecting and investigating any unlawful activity or alleged unlawful activity, the disclosure of which would harm the investigation which may include crime scene reports and demonstrative evidence;
- (2) Records that would reveal the identity of informants and/or witnesses;
- (3) Records that would prematurely release information that would impede the public body’s enforcement, investigative or detection efforts;
- (4) Records that would disclose investigatory techniques and/or results of investigative techniques;
- (5) Records that would deprive a person of a right to a fair trial or an impartial adjudication;
- (6) Records that would endanger the life or safety of a public official or law enforcement personnel, or confidential informants or witnesses;
- (7) Records pertaining to quality control or PEER review activities; or
- (8) Records that would impede or jeopardize a prosecutor’s ability to prosecute the alleged offense.

Identifiable Record: A record is identifiable if a reasonably specific description of the record has been given, such as the date of the record, the subject matter, division or person involved which will permit location or retrieval of the record.

Working Day: A working day is any day other than a weekend, state holiday, or other day on which by executive order the Office of the State Auditor's Office is authorized to be closed or all the employees of the Office are authorized to be absent.

All requests for information will be in writing, specifically identify the nature of the records requested, be signed by the person(s) making the request, and provide the requester's address and telephone number. All requests shall be addressed to the Office of the State Auditor, Attn: Staff Attorney, P.O. Box 956, Jackson, Mississippi 39205-0956. Any employee who receives a written or oral request for Office of the State Auditor records will direct the requester to the Staff Attorney. Requests for published audits or work papers will be directed to the Director of the Financial and Compliance Audit Division. Public records requests will be received during normal working hours. The Director of Communications will maintain a file of all requests and the reply to each. The Director of Administrative Services will maintain a file of fees collected which involve Public Records Act requests.

The Office of the State Auditor will notify the requester in writing no later than seven (7) working days from the date of the request whether production will be made or if the request is denied, or any combination thereof. If the records are to be released, an estimate of total cost, if any, will be given with the notification. Upon receipt of payment in full for the estimated cost, the records will be produced within a reasonable time in relation to the extent of records to be produced. Should the amount of production time exceed ten (10) working days after receipt of payment, the requester will be notified in writing of the reason. If a request is denied, the written notification will contain the basis for the denial.

EXEMPT RECORDS

Records Exempt by Law: Any record expressly exempt from the Records Act or any record specifically declared to be confidential or privileged by any other Mississippi statute or constitutional provision shall not be subject to mandatory inspection and copying. Those records which are specifically exempt by statute and which fall within the jurisdiction of the Office of the State Auditor include the following:

1. Personnel records and applications for employment, except those which may be released to the person who made the application or with the prior written consent of the person who made the application. This shall not be construed to prohibit the disclosure of the following information about employees: name, address, date of employment, length of employment, qualification, and salary.
2. Test questions and answers which are to be used in employment examinations.
3. Letters of recommendation respecting any application for employment.
4. Records which represent and constitute the work product of any attorney and which are related to litigation made by or against the Office of the State Auditor or in anticipation

of prospective litigation, including all Public Relations communications between such attorney made in the course of an attorney-client relationship.

5. Appraisal information which concerns the sale or purchase of real or personal property for public purposes prior to the announcement of the purchase or sale, where the release of such records would have a detrimental effect on such sale or purchase.
6. Investigative reports contained in the investigative files of the Investigative Division.
7. Personal information of victims, law enforcement officers, judges, or district attorneys or their spouses contained in the investigative files of the Investigative Division.

Work Papers: The Mississippi Code gives special protection to work papers associated with an audit. Section 7-7-125 provides that all work papers associated with an audit prepared by the Department of Audit shall be confidential, but shall be available to subsequent auditors engaged in performing a subsequent audit of an entity. If a request for work papers is received, it must be forwarded to the Director of the Financial and Compliance Audit Division.

Trade Secret Notice: For the purpose of providing advance notice to providers of trade secret or confidential commercial or financial information, twenty-five (25) days from the provider's receipt of written notice shall be deemed a reasonable time for the disclosure of the requested records in the absence of a court order to the contrary.

If any public record contains material which is not exempted under the Public Records Act, the exempted material shall be redacted and the nonexempt material shall be made available for examination.

FEES

Costs: A fee covering the direct cost of search and reproduction to comply with the request shall be charged. The following charges and collections shall be made and collected prior to producing the records:

1. There shall be a reproduction charge of ten cents per page and actual cost per hour or any part thereof for personnel time for the reproduction of the documents requested.
2. Certification of authenticity shall be \$3.00 for each certificate. Certification shall be provided by the Director of Administrative Services.
3. Search/collation of records by staff personnel shall be at the actual cost per hour for any man hour or part thereof for search/collation of the documents requested. Personnel hours will be calculated cumulatively with each employee involved keeping account of time expended to be turned into the Director of Administrative Services.
4. Other direct costs related to the request may be charged for, including such items as mailing and computer search.
5. Charges for bound documents shall be determined by the length of the document, number of file copies available, and the method used to print the document. There shall be a

standard charge of \$15.00 for each regular audit report reproduced. However, if the audit report is available on the OSA website, the reproduction charge will be \$25.00.

6. The Staff Attorney may, at his/her discretion, allow the person making a request to review the records requested after such records are compiled at the Office of the State Auditor.
7. Fees and charges shall be paid by check or money order made payable to the Office of the State Auditor. The Director of Administrative Services shall be responsible for the receipt and proper disposition of such, and shall provide a receipt for every separate payment.

Free Services: There shall be no charge if the record requested is not found or is determined to be completely exempt from public disclosure. No charge shall be made for staff hours spent in resolving any legal or policy question concerning the request.

Public Interest Waiver: Fees established by this rule may be waived or reduced upon a determination by the Staff Attorney or the State Auditor that such waiver or reduction is in the public interest because furnishing the information is considered as primarily benefiting the general public. Persons seeking such waiver or reduction of fees may be required to submit a statement setting forth the intended purpose for which the records are requested or otherwise indicate how disclosure will primarily benefit the public, and, in appropriate cases, explain why the volume of records requested is necessary. Determinations pursuant to this subsection are solely within the discretion of the Office of the State Auditor.